

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
AT&T Petition to Launch a Proceeding	)	GN Docket No. 12-353
Concerning the TDM-to-IP Transition;	)	
	)	
Petition of the National Telecommunications	)	
Cooperative Association for a Rulemaking to	)	
Promote and Sustain the Ongoing TDM-to-IP	)	
Evolution	)	

**REPLY COMMENTS OF THE  
NATIONAL HISPANIC MEDIA COALITION**

The National Hispanic Media Coalition (“NHMC”) submits these reply comments in response to the Federal Communications Commission’s (“Commission”) Public Notice seeking comment on two petitions before it relating to the nationwide transition to a voice network based on Internet Protocol (“IP”) technology.<sup>1</sup>

AT&T’s pending transition of the Public Switched Telephone Network (“PSTN”) from Time Division Multiplex (“TDM”) based to an all-IP network presents an opportunity for the Commission to focus on consumers and competition to ensure that the next generation of technology, like previous generations, provides people across the country access to reliable and affordable communications services. This is particularly important for low income and rural consumers, including many Latinos, who are often difficult to reach or do not contribute as substantially to service providers’ bottom lines.

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<sup>1</sup> *Pleading Cycle Established on AT&T and NTCA Petitions*, GN Docket No. 12-353, Public Notice, (rel. Dec. 14, 2012) (“Public Notice”).

AT&T is right to suggest that the Commission assess how current regulations will continue to serve the communications needs of Americans in the digital age.<sup>2</sup> It is certain that some regulations will need to be eliminated, updated, or rewritten entirely to keep up with the changing technology. NHMC applauds the Commission for beginning this task in earnest, through the opening of this docket, and urges the Commission to fully consider the implications of transition for consumers and competition as it proceeds. The Commission should regulate where necessary to avoid harmful consequences to ensure that the transition is carried out in a way that stays true to a long legacy of promoting universal service.<sup>3</sup>

**1. The Commission must protect consumers during and after the transition.**

In charting the path forward, the Commission must thoroughly consider the impact that this transition could have on consumers – specifically, the impact of phasing out many regulations during and after the transition, as AT&T suggests. Many current regulations ensure access, affordability, consumer protection, and public safety, and should remain in place.

First, the Commission must take steps to ensure that all consumers will have access to affordable voice services during and after the IP transition. Although AT&T argues that deregulation is a way to increase investment and build out, it is often the underserved and hardest to reach that are left out when profit maximization is the only consideration driving investment decisions. Indeed, AT&T concedes that almost a quarter of its customers will lose their wireline service after the transition and be forced to migrate to AT&T's more costly and less flexible wireless alternative.<sup>4</sup> AT&T also reveals that a full one percent of its current customers will not

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<sup>2</sup> AT&T Inc., Petition to Launch a Proceeding Concerning the TDM-to-IP Transition (filed Nov. 7, 2012) (“AT&T Petition”).

<sup>3</sup> See 47 U.S.C. § 151.

<sup>4</sup> Presentation by AT&T at AT&T Analyst Conference 2012, “Laying a Foundation for Future Growth,” 10 (Nov. 7, 2012), *available at*

be served at all after the transition.<sup>5</sup> This falls short of the bar set by Congress in the Communications Act directing that “all people of the United States” – not 99 percent – have access to “wire and radio communications service” at “reasonable charges.”<sup>6</sup> Most of the folks that will lose access are those that rely on it the most – and the very communities and families that existing regulations are designed to protect.

Second, the Commission should ensure that access to the upgraded network is affordable – particularly for low-income consumers. AT&T’s tiered, wireless services are not yet a viable substitute to a virtually unlimited, wired home broadband connections for a number of reasons.<sup>7</sup> Customers that are forced to transition from wireline to wireless will face higher bills if they want to maintain the service to which they have become accustomed. Further, deregulation in states across the country has proven to be an ineffective way to control consumer prices. For instance, after the California Public Utilities Commission eliminated local service rate caps in 2006, AT&T’s wireline prices “skyrocketed.”<sup>8</sup> As it proceeds, the Commission should be mindful of these real world examples of the unintended consequences of industry-sought deregulation. Finally, the Commission must make great efforts to ensure that the programs of the Universal Service Fund are carried over to this new generation of services. NHMC has long advocated for the Commission to allow Lifeline, the low-income program, to cover advanced

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[http://www.att.com/Common/about\\_us/files/pdf/analyst\\_presentation\\_c.pdf](http://www.att.com/Common/about_us/files/pdf/analyst_presentation_c.pdf) (“AT&T Presentation”).

<sup>5</sup> AT&T Presentation at 44.

<sup>6</sup> 47 U.S.C. § 151.

<sup>7</sup> See, e.g., Gerry Smith, “Smartphones Bring Hope, Frustration As Substitute For Computers,” THE HUFFINGTON POST (June 6, 2012), *available at* [http://www.huffingtonpost.com/2012/05/25/smartphones-digital-divide\\_n\\_1546899.html](http://www.huffingtonpost.com/2012/05/25/smartphones-digital-divide_n_1546899.html).

<sup>8</sup> James Temple, “AT&T rates skyrocket since deregulation,” SAN FRANCISCO CHRONICLE (Jan. 18, 2013), *available at* <http://www.sfgate.com/technology/dotcommentary/article/AT-amp-T-rates-skyrocket-since-deregulation-4204388.php>.

services such as broadband.<sup>9</sup> This transition is a perfect opportunity for the Commission to assert its authority and protect these programs for generations to come.

Third, the Commission should make sure that regulations offering important consumer protections are carried over after the transition. Currently, consumers that use traditional phone service are protected by statutory and regulatory consumer protections that range from ensuring truth-in-billing to privacy to prevention of predatory practices such as slamming and cramming.<sup>10</sup> No technical aspect of the changing technology makes these regulations obsolete or unnecessary. The Commission must determine the best means to carry these protections forward.

Finally, the Commission must carefully explore the impact that this transition could have on the important public safety role that voice communications networks play in emergencies. Time and again, IP-based and wireless alternatives have proven to be far inferior to traditional telephone service during emergencies as both are particularly vulnerable to widespread power outages that often result from catastrophic events. Other commenters highlighted, for instance, the reliance on traditional pay phones after Hurricane Sandy as other communications services failed.<sup>11</sup> If traditional telephone service is to be discontinued, as AT&T suggests, the Commission must first take steps to ensure that other networks are up to the task of remaining operational during emergencies.

## **2. The Commission must make sure that the transition is conducted in a pro-competitive way.**

The Commission must also ensure that the IP transition is conducted in a way that will promote competition. One way to do this is by ensuring that interconnection rules and

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<sup>9</sup> See, e.g., Comments of the National Hispanic Media Coalition, WC Docket No. 03-109 (filed July 15, 2010).

<sup>10</sup> See 47 U.S.C. § 202(a).

<sup>11</sup> See Comments of Public Knowledge at 14, GN Docket No. 12-353 (filed Jan. 28, 2013).

regulations are still applied during and after the transition.<sup>12</sup> As many commenters rightly pointed out, a change in technology does not change the party in control of the networks and facilities that are necessary for providers across the country to connect seamlessly to many different communities.<sup>13</sup> Eliminating interconnection requirements without developing an alternative framework will allow incumbents to wield this control to augment revenue at the expense of competitors. Further, should any of these hypothetical carriage negotiations become contentious, consumers could be adversely impacted. The consequences of carriage disputes have been widely discussed in another context – television retransmission consent – as entire communities frequently face service outages when parties cannot agree to terms.<sup>14</sup> This cannot happen to voice communications, a vital lifeline in times of emergency.

**3. The trials proposed by AT&T will be insufficient to determine the applicability of many existing regulations.**

While the limited trials proposed by AT&T may be useful to explore various technical issues that may arise during the transition, NHMC believes that they will be far less useful to determine the practical consequences of widespread deregulation.<sup>15</sup> The Commission's watchful eye will weigh heavily on the practices of AT&T in these markets, encouraging good behavior. Trials conducted in this manner would incentivize AT&T to work towards a desired outcome – permanent deregulation – rather than simulate actual conditions.

**4. AT&T has recognized that the transition will yield many important business advantages beyond the outcome of this proceeding.**

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<sup>12</sup> 47 U.S.C. §§ 251, 252.

<sup>13</sup> See Comments of T-Mobile, GN Docket No. 12-353 (filed Jan. 28, 2013); Comments of Sprint, GN Docket No. 12-353 (filed Jan. 28, 2013).

<sup>14</sup> See, e.g., Steve Donohue, "DirecTV loses ABC, CBS and The CW stations in retransmission dispute," FIERCECABLE (June 5, 2012), available at <http://www.fiercecable.com/story/directv-loses-abc-cbs-and-cw-stations-retransmission-dispute/2012-06-05#ixzz2LwJUZhB>.

<sup>15</sup> AT&T Petition at 20-23.

While the prospect of AT&T transitioning to an all-IP network and deploying high speed broadband to communities across the country is exciting, it is important to note very clearly that this network upgrade is neither unprecedented nor entirely altruistic. Communications infrastructure and services have continuously been upgraded and updated across this country, from the wireless analog-to-digital transition to the DTV transition, often to little fanfare. While it is undeniable that consumers benefit from having access to the latest technology, incumbents also reap great rewards through new revenue streams, greater efficiencies, and lower operating costs. For instance, some estimate that AT&T could experience a windfall of up to \$100 billion by selling excess real estate that it will no longer need after the transition, as it will be able to consolidate and downsize most of its facilities.<sup>16</sup> Indeed, AT&T has very openly recognized the enormous benefits that this transition will have on its business and any suggestion that this transition will not occur if the Commission fails to capitulate to each of AT&T's requests is misinformed.<sup>17</sup>

Recognizing this, there is too much at stake here for this process to be subject to the same disingenuous game of regulatory chicken that has been played with the Commission in the past. Time and again, industry has come to the Commission with the promise of investment in exchange for regulatory relief. However, such investments are usually predetermined to be in the business interests of the company and purposefully packaged as leverage during a flashpoint in which Commission action is desired. In fact, AT&T's announcement of its network investments during this transition contradicts many of the statements it made during its failed bid to acquire

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<sup>16</sup> Daniel Berninger, Voice Communications Exchange Committee, "AT&T's \$100 Billion All-IP Network Real Estate Windfall," *available at* <http://vcxc.org/att/>.

<sup>17</sup> See AT&T Presentation.

T-Mobile.<sup>18</sup> Recognition of these tactics will allow the Commission to see past the messaging and be more thoughtful about the actual impacts of this transition on consumers and competition.

## CONCLUSION

The potential benefits that consumers will receive if the Commission handles AT&T's IP transition correctly are very real. However, the Commission must establish a new regulatory framework so that the transition can be an onramp for all types of communities to access next generation communications technologies, not a speed bump that slows our collective march towards universal service. NHMC strongly believes that, if the Commission heeds the recommendations contained herein, the transition will be every bit as groundbreaking as AT&T claims. So long as the Commission considers the importance of access, affordability, consumer protection, public safety, and competition, as it reviews the petitions before it, the future will be bright.

Respectfully Submitted,

/s/

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<sup>18</sup> See David Goldman, "AT&T's about-face on 4G," CNNMONEY (Nov. 7, 2012), *available at* <http://money.cnn.com/2012/11/07/technology/mobile/att-4g/index.html>.